

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS - DALLAS DIVISION**

LEXOR MANUFACTURING, LLC	§	
Plaintiff/Counter-Defendant,	§	Case No. 3:18-CV-01933-S
	§	
v.	§	
	§	JURY TRIAL DEMANDED
LURACO, INC. AND LURACO	§	
HEALTH & BEAUTY, LLC,	§	
Defendants/Counter-Plaintiffs.	§	

**COUNTER-PLAINTIFFS LURACO, INC.’S AMENDED MOTION
TO ADD NEW CROSS DEFENDANT LEXOR, INC. AND ECOJET, LLC
(BRIEF INCORPORATED)**

Counter-Plaintiff Luraco Health & Beauty, LLC requests leave to add two cross defendants, Lexor, Inc. and Ecojet, Inc., which requires an amendment or exception to this Court’s Scheduling Order (Doc. 27, “Order”). The original motion asked only to add Ecojet, Inc.

Pursuant to Rule 14(a)(1) and 20(a)(2), this amended motion asks to add cross-defendants Lexor, Inc. and Ecojet, Inc. as new cross-defendants because both are identically aligned to plaintiff Lexor, LLC, its sister company with which they share ownership, manufacturing, and sales channels.

As this request is beyond the December 10, 2020 deadline to add parties; Luraco therefore seeks amendment to the Order to allow this addition later than the based on good cause.

LEGAL AUTHORITY and FACTUAL BACKGROUND

1. On September 11, 2020, this Court issued a Scheduling Order (Doc. 27) which provided a deadline of 90 and 180 days from the Order to join new parties and amend pleadings under Rule 15(a), setting the deadlines at December 10, 2020, and March 10, 2021, respectively.

2. The initial deadline of 90 days was not calendared properly, leading to this motion to amend being filed late. The intention was to be efficient and file both the motion to amend and join the new cross-defendant with the same amended complaint. (The deadline to amend pleadings remains two months away, but is expected to be filed with a motion to amend within two weeks.)

A. The proposed counter-petition complies with the Court's Order.

3. Aside from adding Lexor, Inc. and Ecojet, LLC as cross-defendants, the coming amended countercomplaint will add additional patents to the dispute and is within the expectations of the Court as it issued the Scheduling Order.

4. As a reminder, this case was abated for some time while the USPTO adjudicated a challenge to one of the plaintiff's patents. The Court's Order giving the deadlines was in part based on feedback that one or both parties might update their pleadings after that adjudication. Thus, Luraco will ask this Court to allow the counterclaim amendment as an expected part of this case under Rule 15(a)(2), as leave to amend should be freely given when justice so requires.

B. Good cause supports Luraco's motion to bring new defendant Lexor, Inc.

5. The facts will show that Ecojet, LLC and Lexor Manufacturing, LLC and Lexor, Inc. are all three owned by Christopher Luong. All three organizations use common manufacturing and sales channels.

6. This motion as originally filed by Luraco on January 11 (Doc. 28) stated that Lexor Manufacturing LLC sold Ecojet products in Texas. That statement was imprecise. Luraco has come to see that *Lexor, Inc.* is selling infringing products in Garland identified as manufactured by Ecojet, and other infringing products made by Lexor Manufacturing, LLC.

7. Luraco will seek the same infringement claims against all three companies: Ecojet, LLC; Lexor, Inc.; and Lexor Manufacturing, LLC.

8. The four additional patents which Luraco seeks damages to be cited as being infringed by the Plaintiffs/counter-Defendants for practice of judicial efficiency.

9. Additionally, Luraco only recently recognized that Luraco Inc. was the operator in Texas, and not Luraco, LLC. The other approach to resolving this matter is for Luraco to file a separate suit and move for consolidation - a significantly slower resolution which potentially would result in a highly inefficient series of suits on common facts in potentially different courts.

10. Counsel for Lexor Manufacturing, LLC has also represented Ecojet in the previous suit, but has indicated opposition to this motion.

PRAYER

For these reasons, plaintiffs ask that the Court to GRANT Plaintiffs leave to file an amended complaint with additional parties Ecojet, LLC and Lxor, Inc., and any other relief the Court deems appropriate.

Respectfully Submitted,

/s/ Warren V. Norred

Warren V. Norred, State Bar No. 24045094

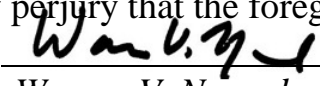
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Attorney for Defendants/Counter-Plaintiffs

Declaration in Support - I declare under penalty of perjury that the foregoing is true and correct. Executed on January 18, 2021. - 

Warren V. Norred

CERTIFICATES

SERVICE - I hereby certify that I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the Electronic Service List for this Case, which includes the following:

Andy Nikolopoulos, anikolopoulos@foxrothschild.com

Jeff Grant, jgrant@foxrothschild.com

Attorneys for Plaintiff Lxor Manufacturing, LLC

s/Warren V. Norred/

CONFERENCE— I certify that I contacted Jeff Grant, plaintiff's counsel, who responded to me by email on January 12, 2020, and indicated opposition to the original addition of Ecojet as a cross defendant by email on January 12, 2020.

s/Warren V. Norred/